

FMCE-P015C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of: Bartlett et al.)
Serial No.: 10/683,936) Group Art Unit: 3671
Filed: 10/10/2003) Examiner: T. Beach
For: FLOW COMPLETION SYSTEM)

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Commissioner for Patents
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Response to Office Action

This communication is responsive to the Office Action dated October 28, 2005.

Claims 1-17 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of applicants' co-pending U.S. Patent Application No. 10/817,391. Accordingly, applicants have submitted herewith a terminal disclaimer in order to obviate this provisional rejection.

Claims 1-3, 11-14, 16 and 17 stand rejected under 35 U.S.C. 102(e) as being anticipated by the Cooper Oil Tool paper entitled "Cadiz Poseidon Field Development" (the "Cooper paper"). Applicants respectfully submit that this rejection is improper since 35 U.S.C. 102(e) only applies for prior art consisting of patents and published patent applications.

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However, even assuming that the Examiner intended to apply 35 U.S.C. 102(b) against these claims, such a rejection would be improper since the Cooper paper does not qualify as prior art. In particular, the Cooper paper does not appear to be a printed publication. Rather, it appears to be a proposal, and these types of documents are commonly kept confidential in order to prevent competitors from learning of the company's proposed designs. To be sure, the pages to which the Examiner refers all contain confidentiality legends restricting their disclosure.

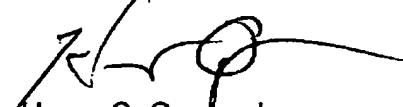
Thus, the Cooper paper does not constitute prior art. Therefore, claims 1-3, 11-14, 16 and 17 cannot be anticipated by the Cooper paper.

The Examiner has stated that claims 4-10 and 15 would be allowable if they are rewritten in independent form to include the limitations of their base and intervening claims. However, these claims depend from claims 1 and 11, which applicants maintain are patentable over the prior art cited by the Examiner. Therefore, applicants submit that claims 4-10 and 15 do not need to be rewritten.

The prior art made of record but not relied upon has been considered but is not believed to be pertinent to the patentability of the instant invention.

In light of the foregoing, claims 1-17 are submitted as allowable. Favorable action is solicited.

Respectfully submitted,



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